

### **Remarks**

The Final Office Action withdrew the claim rejections of the Non-Final Office Action dated 7/25/2008. However, the Office Action also introduced a new ground of rejection for all the claims by citing Teegan.

Applicants respectfully submit that many of the claims, including independent claims 10, 23, and 42, were not amended in response to the Non-Final Office Action. Furthermore, Applicants did not submit Teegan in an information disclosure statement. Accordingly, it is submitted that the Final Office Action is premature as it introduces the new ground of rejection for several of the claims that was neither necessitated by amendment, nor based on information submitted in an information disclosure statement. *See* MPEP § 706.07(a).

In view of the foregoing, Applicants respectfully request withdrawal of the Final Office Action and issuance of a Non-Final Office Action. If the Examiner determines that a petition is required to withdraw the Final Office Action, Applicants hereby make the petition to the Director under § 37 C.F.R. § 1.181. As statement of facts, Applicants respectfully submit that that the Final Office Action is premature because it introduced a new ground of rejection for several claims, including independent claims 10, 23, and 42, which was neither necessitated by amendment, nor based on information submitted in an information disclosure statement.

### Conclusion

In view of the foregoing, Applicants respectfully request withdrawal of the Final Office Action and issuance of a Non-Final Office Action.

Applicants have submitted all known required fees and petitions. Accordingly, Applicants believe that no additional fees, petitions for extensions of time, other petitions, and/or other forms of relief are required for the submission of this Response. However, in the unlikely event that the Commissioner determines that additional fees, petitions for extensions of time, other petitions, and/or other forms of relief are required, Applicants hereby make such petitions as are required, request such extensions of time and other forms of relief as are required, and authorize the Commissioner to charge the cost of such petitions for extensions of time, other petitions, and/or other forms of relief to Deposit Account No. 50-3804 referencing APLE.P0005.

Respectfully submitted,

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